



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,278	06/27/2003	Erik W. Selberg	RN074 (2635-012-03)	8513
72455 7590 09/01/2009 Graybeal Jackson Haley c/o RealNetworks Graybeal Jackson Haley LLP 155 - 108th Ave NE Suite 350 Bellevue, WA 98004-5973				
EXAMINER				
TRUONG, THANHNGA B				
ART UNIT		PAPER NUMBER		
2438				
MAIL DATE		DELIVERY MODE		
09/01/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/608,278

Applicant(s)

SELBERG ET AL.

Examiner

THANHNGA B. TRUONG

Art Unit

2438

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 68-92 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 68-92 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's amendment filed on June 4, 2009 has been entered. Claims 68-92 are pending. Claims 1-67 are cancelled, and claims 92 is newly added by the applicant. At this time, claims 68-92 are rejected.

Response to Arguments

2. Applicant's arguments filed June 04, 2009, with respect to claim 68 have been fully considered and are persuasive. The previous ***Claim Rejections - 35 USC § 112*** of claim 68 has been withdrawn.

Applicant's arguments with respect to claims 68-92 have been considered but are moot in view of the new ground(s) of rejection.

The fact that Examiner may not have specifically responded to any as indicating particular arguments made by Applicant and Applicant's Representative, should not be construed Examiner's agreement therewith.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 68-72, 74, 77-92 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spagna et al (US 6,587,837 B1) as applied to claims 68-72, 74, 77-92 above, and further in view of Wyman (US 5,260,999).

a. *Referring to claim 68:*

i. Spagna teaches a method for controlling access to digital content (**column 9, lines 52-57 of Spagna**), the method comprising:

(1) storing with the first computing device (**column 6, lines 35-39 of Spagna**) a plurality of licenses for authorizing use of the content (**column 4, lines 27-32; column 10, lines 28-33 of Spagna**) from a configurable rules

that is based at least in part on [[a]] at least one user attributes(**column 12, lines 52-67 of Spagna**);

(2) receiving with a second computing device (e.g. content player) a request to use the content (**column 10, lines 28-33 of Spagna**);

(4) determining with the second computing device (e.g. content player) whether or not at least one of the plurality of licenses authorizes the requested use of the content (**column 10, lines 28-33; column 14, lines 1-19 of Spagna**);

(5) responsive to said determination, allowing the requested use of the content if at least one of the plurality of licenses authorizes the requested use (**column 10, lines 28-57 of Spagna**); and

(5) providing with a third computing device (e.g., content player) an option to modify at least one of the user attributes to qualify for a license, [[if]] responsive to the determining finding that none of the plurality of licenses authorizes the requested use (**column 6, lines 35-39 of Spagna**).

ii. Although Spagna teaches a method for controlling access to digital content (**column 9, lines 52-57 of Spagna**), Spagna is silent on the capability of showing an option to modify at least one of the user attributes to qualify for a license, responsive to the determining finding that none of the plurality of licenses authorizes the requested use. On the other hand, Wyman teaches this limitation in **column 29, lines 11-68 of Wyman**.

iii. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to:

(1) have modified the invention of Spagna with the teaching of Wyman for managing the licensing of software executed on the computer systems (**column 1, lines 25-26 of Wyman**).

iv. The ordinary skilled person would have been motivated to:

(1) have modified the invention of Spagna with the teaching of Wyman to allow a license manager to modify the license policy components of a license document maintained by a license server in its database. Usually the license manager can only make modifications that restrict the license policy components to be more restrictive than originally granted. Of course, the management interface is used to make delegations and assignments, if these are authorized **(column 8, lines 24-31 of Wyman)**.

b. Referring to claim 69:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) wherein the user attributes comprise the user's age **(column 11, lines 8-17 of Spagna)**.

c. Referring to claim 70:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) wherein the user attributes comprise the user's residence **(column 11, lines 8-17 of Spagna)**.

d. Referring to claim 71:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) wherein the user attributes comprises a payment method **(column 4, lines 22-26; column 11, lines 8-17 of Spagna)**.

e. Referring to claim 72:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) wherein at least one of the plurality of licenses comprises at least one grant **(column 10, lines 28-33 of Spagna)**.

f. Referring to claims 74, 84:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) wherein determining whether or not at least one of the plurality of licenses authorizes the requested use comprises comparing an entitlement requirement of at least one of the plurality of licenses against an attribute of a user who has made the request **(column 10, lines 28-33 of Spagna)**.

g. Referring to claim 77:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) wherein the requested use comprises playback **(column 5, line 51 of Spagna)**.

h. Referring to claim 78:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) wherein the requested use comprises copying to a compact disc **(column 53, lines 11-16 of Spagna)**.

i. Referring to claim 79:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) wherein the requested use comprises copying to a digital video disc **(column 53, lines 11-16 of Spagna)**.

j. Referring to claim 80:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) wherein the requested use comprises copying to a hard-drive **(column 53, lines 11-16 of Spagna)**.

k. Referring to claim 81:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) wherein the requested use comprises downloading to a portable player **(column 9, lines 58-59 of Spagna)**.

l. Referring to claim 82:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) wherein the rule is dynamically reconfigurable **(column 29, lines 47-50; column 31, lines 53-55; column 45, lines 22-29; column 52, lines 36-50 of Spagna)**.

m. Referring to claim 83:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) wherein at least one of the plurality of licenses is dynamically reconfigurable **(see Figure 5 and column 4, lines 26-32; column 39, lines 31-43 of Spagna)**.

n. Referring to claim 85:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) wherein providing information on how to qualify for a license comprises providing a user attribute that would allow authorization of the requested use **(column 10, lines 28-33; column 14, lines 1-19 of Spagna)**.

o. Referring to claim 86:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) wherein providing information on how to qualify for a license comprises providing an amount of money that, if received, would allow authorization of the requested use **(column 14, lines 20-47; column 21, lines 38-49 of Spagna)**.

p. Referring to claim 87:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) wherein the first and second computing devices are the same computing device **(see Figures 1 and 5 of Spagna)**.

q. Referring to claim 88:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) wherein the first, second and third computing devices are the same computing device **(see Figures 1 and 5 of Spagna)**.

r. Referring to claim 89:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) wherein the first and third computing devices are the same computing device **(see Figures 1 and 5 of Spagna)**.

s. Referring to claim 90:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) wherein the second and third computing devices are the same computing device **(see Figures 1 and 5 of Spagna)**.

t. Referring to claim 91:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) wherein the user attribute comprises a computing device unique identifier **(column 24, lines 37-41 of Spagna)**.

u. Referring to claim 92:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter, Spagna further teaches:

(1) providing with the third computing device an option to purchase a license (e.g., condition of purchase), if none of the plurality of licenses authorizes the use **(column 10, lines 15-27 of Spagna)**.

5. Claims 73, 75, and 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spagna et al (US 6,587,837 B1), in view of Wyman (US 5,260,999), and further in view of Eichstaedt et al (US 6,108,645).

a. Referring to claims 73, 75, 76:

i. The combination of teaching between Spagna and Wyman teaches the claimed subject matter via the usage of licenses and rules, however they are silent on the capability of using Boolean-based expressions with its rules. On the other hand, Eichstaedt teaches this limitation in **column 2, lines 10-18; column 8, lines 25-27 of Eichstaedt**.

iii. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to:

(1) have modified the modified-invention of Spagna with the teaching of Eichstaedt to establish a secure, global distribution system for digital content that protects the rights of content owners (**column 2, lines 56-58 of Spagna**).

iv. The ordinary skilled person would have been motivated to:

(1) have modified the modified-invention of Spagna with the teaching of Eichstaedt for the secure delivery and rights management of digital assets, such as print media, films, games, and music over global communications networks such as the Internet and the World Wide Web (**column 1, lines 55-58 of Spagna**).

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and

any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanhnga (Tanya) Truong whose telephone number is 571-272-3858.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Taghi Arani can be reached at 571-272-3787. The fax and phone numbers for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2100.

/Thanhnga B. Truong/
Primary Examiner, Art Unit 2438

TBT
August 29, 2009